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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/775,669

02/09/2004

Donald Starr

STA-2.001

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03/24/2008

GANZ LAW, P.C.

P O BOX 2200

HILLSBORO, OR 97123

EXAMINER

KIM, CHRISTOPHER S

ART UNIT

PAPER NUMBER

3752

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/775,669	<b>Applicant(s)</b> STARR, DONALD	
	<b>Examiner</b> Christopher S. Kim	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 1-28, 41 and 42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/19/04, 2/27/07, 6/5/07</u> .                                | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group IV, Species A in the reply filed on February 5, 2008 is acknowledged. The traversal is on the ground(s) that (1) claim 10 has no utility in automobiles because the tire assembly distributes the weight of the tower structure on the ground, (2) the claims merit one reasonable classification, and (3) the Action fails to indicate particular limitations to support an election requirement. This is not found persuasive because (1) claim 10 does not prohibit the use of the tire assembly on an irrigation vehicle having a tower, (2) applicant's assertion that the claims merit one reasonable classification is unsupported by facts, and (3) even if the claims are generic to both Species A and B, disclosure of alternate embodiments of figures 11 and 14 merit the election requirement.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-28, 41 and 42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on February 5, 2008.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 29-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 29, the preamble is directed to a wheel assembly but further recites that the wheel assembly is connected to a tower. The claim is directed to the subcombination of a wheel assembly but further makes reference to the combination of a wheel assembly and a mobile irrigation system.

Claim 29 recites "a wheel assembly" in line 3 (two occurrences). They appear to be a double inclusion of the "wheel assembly" recited in line 1.

Claim 32 recites, "the support frame provides for an adjustable connection between the tower and the tire assembly. The tower and the tire assembly are not positively recited limitations. Does claim 32 positively recite the adjustable connection? In which case, claim 32 requires a relationship of the support frame with non positively recited tower and tire assembly. Or, does claim 32 merely require the capability of accommodating an adjustable connection?

Claim 33 further defines the adjustable connection in relation to the tower and tire assembly which are not positively recited limitations as indicated by claim 29.

Claim 35 recites a relationship between the wheel assembly and "a tube of the tower." The tower is not a positively recited limitation as indicated by claim 29. The parent claim is directed to the subcombination of the wheel assembly, but claim 35 further defines the combination.

Claim 36 recites, "a support frame" in line 1. It appears to be a double inclusion of the "support frame" recited in claim 29, line 4.

Claim 37 recites, "a support frame" in line 2. It appears to be a double inclusion of the "support frame" recited in claim 29, line 4.

Claims 39 and 40 further defines the force transfer member in relation to the tower and tire assembly which are not positively recited limitations as indicated by claim 29.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 29-32, 34-37, 39 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Astle (738,271).

Astle discloses a wheel assembly comprising:

at least one support frame 28, 21, 22.

In the preamble, "for a mobile irrigation system having an elongated boom and a plurality of downwardly extend towers, each connecting to a wheel assembly" indicates intended use and is not a positively recited limitation.

In the body, "for supporting a tire assembly on opposite sides so as to distribute weight from the tower across the opposites sides of the tires assembly" indicates intended use and is not a positively recited limitation.

In the body, "adapted to be coupled to a tower" merely requires the capability to be coupled to a tower and is not a positively recited limitation.

Claims 30 and 31 further define the tire assembly which is not a positively recited limitation as indicated by claim 29.

Regarding claims 32, 34 and 35, the support frame 28, 21, 22 provides for an adjustable connection 24.

Regarding claims 39 and 40, Astle further discloses a force transfer member 20.

7. Claims 29-32 and 36-40 rejected under 35 U.S.C. 102(b) as being anticipated by Chapman (6,131,833).

Chapman discloses a wheel assembly comprising:

at least one support frame 32, 34, 38, 40.

In the preamble, "for a mobile irrigation system having an elongated boom and a plurality of downwardly extend towers, each connecting to a wheel assembly" indicates intended use and is not a positively recited limitation.

In the body, "for supporting a tire assembly on opposite sides so as to distribute weight from the tower across the opposites sides of the tires assembly" indicates intended use and is not a positively recited limitation.

In the body, "adapted to be coupled to a tower" merely requires the capability to be coupled to a tower and is not a positively recited limitation.

Claims 30 and 31 further define the tire assembly which is not a positively recited limitation as indicated by claim 29.

Regarding claim 32, the support frame 32, 34, 38, 40 provides for an adjustable connection 42.

Regarding claims 39 and 40, Chapman further discloses a force transfer member 42.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher S. Kim/  
Primary Examiner, Art Unit 3752

CK